

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA,

NO. 3:00-CR-00259

v.

(JUDGE CAPUTO)

JOSEPH GORKO, JR.

MEMORANDUM ORDER

Presently before the Court is Joseph Gorko's "Motion Via 60(b)(4) And [(3) & (6)] To Vacate Judgment, Erase Case And For The Immediate-Release of Movant As Pursuant to the F. Rules of Civil Procedure." (Doc. 210.)

The Federal Rules of Civil Procedure, by their own terms, apply only to civil actions. See FED. R. CIV. P. 1 ("these rules govern the procedure . . . in all suits of a civil nature"). Indeed, Rule 60(b) of the Federal Rules of Civil Procedure has been held inapplicable to criminal cases. *United States v. Martinez-Tull*, No. 06-4547, 2007 WL 1133277 (3d Cir. Apr. 17, 2007); see also *United States v. Mosavi*, 138 F.3d 1365 (11th Cir. 1998) (Federal Rules of Civil Procedure do not provide for relief from judgment in a criminal case); *Dubin v. Real*, 191 Fed. Appx. 528 (9th Cir. 2006) ("an action under Rule 60(b) of the Federal Rules of Civil Procedure cannot be used to collaterally attack a criminal conviction"); *United States v. Triplett*, 166 Fed. Appx. 362 (10th Cir. 2006) (Rule 60(b) has no applicability to a criminal proceeding). Accordingly, the Court has no jurisdiction to address the merits of Mr. Gorko's motion. The Court will thus deny Mr. Gorko's motion.

NOW, this 15th of May, 2007, **IT IS HEREBY ORDERED** that Joseph Gorko's Motion Via 60(b)(4) And [(3) & (6)] To Vacate Judgment, Erase Case And For The Immediate-Release of Movant As Pursuant to the F. Rules of Civil Procedure (Doc. 210) is **DENIED**.

/s/ A. Richard Caputo
A. Richard Caputo
United States District Judge